

BUSINESS AND MANAGEMENT CONSULTING SERVICES MSA
Section II, Supplement #14, 11/03

II. ORDERING PROCEDURES FOR MSA SERVICE CONTRACT

This user guide is designed to help the ordering agency with the final selection of a Contractor.

In addition to procedures found in this user guide and the DGS/OLS State Contracting Manual, the ordering agency's internal contract procedures also must be followed.

State agencies should consider utilizing the Department of Finance (DOF), Office of State Audits and Evaluations (OSAE) as a contractor for Category 4a and 4b services. OSAE currently conducts financial, compliance and performance audits for state agencies through the use of an interagency agreement. Government Code Section 8546.4 (e) states that "except for those state agencies that are required by state law to obtain an annual audit, no state agency shall enter into a contract for a financial or compliance audit without prior written approval of the Controller and the Director of Finance, which approval shall state the reason for the contract and shall be filed with the State Auditor at least 30 days prior to the award of the contract."

A. CONTRACTOR SELECTION

1. Project's Statement of Work/Request for Offer

After defining the project, the ordering agency determines which service category or categories best fit the statement of work for the project. The agency then develops a statement of work that is clearly defined as possible. The following should be included in the Request for Offer:

- a. Description of Project
- b. Deliverables and Timelines
- c. Travel to Multiple Locations, if required
- d. Selection Criteria and method—RFP primary [lowest cost award] or RFP secondary [best value/high point award] with criteria stated and points available listed
- e. Due Date for Submitting Proposal
- f. DVBE Requirement, if required
- g. TACPA, LAMBRA and EZA Documents, if required.
- h. California Small Business Certification, if required.
- i. Proof of Professional Errors and Omissions Insurance, if required.
- j. Performance Bond (agencies need to indicate if the selected contractor will be required to purchase a Performance Bond before the start of the project.

The ordering agency should make every effort to receive **three written proposals**. For a sample of a Request for Offer, please check the DGS/PD website under Master Agreements. The statement of work should be sent to enough firms to ensure the receipt of three written proposals for the project.

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Exceptions to the requirement for three written proposals are:

- 1) Benefit Consulting Services Subcategories – Workgroup Facilitation and Disability Management Program Development. These two subcategories only have two firms each. Although the ordering agency has to contact both firms in each subcategory, it does not have to get a third proposal.
- 2) Effective, January 1, 2001, state agencies can contract for consulting services with a value between \$5,000 and \$100,000 as long as the agencies obtain project proposals from two or more certified small businesses in the appropriate service category or categories and awards to a small business.
- 3) Effective, January 1, 2001, state agencies can contract for consulting services with a value up to \$5,000 by selecting one firm from the appropriate category or categories.

2. Contractor's Response to Statement of Work

- a. The responses submitted by the contractors must include the following:
 - 1) Detailed Procedures/Methods to accomplish the agency's project in a Statement of Work
 - 2) Detailed Budget
 - 3) Resumes and classification of contractor's staff working on the project including the same information for subcontractors
 - 4) DVBE participation information, if required
 - 5) TACPA, LAMBRA and EZA Documents, if required
 - 6) Copy of current California Small Business Certification, if required
 - 7) Proof of Professional Errors and Omissions Insurance, if required
 - 8) Performance Bond, if required
- b. Subcontractors: Subcontracting should be limited to 10% or less of the total amount of the contract services. Since contractors were selected for participation in this MSA based upon their ability to meet or exceed the criteria for selection, it is important that the work be performed by permanent staff of the individual contractors.

Note: the budget should list the number of hours, hourly rate and total for each contractor's personnel and/or subcontractor working on the project. The hourly rates for listed subcontractors can not be higher than the published rates for the prime contractor. If the project covers more than one service category/subcategory and the consultant has different contracted hourly rates for them, the budget must list the number of hours that the contractor's personnel will work in each category/subcategory. It also must list the different rates for each category/subcategory when developing the project's budget. Expenses such as training materials, printing, and media buy, etc. should list as separate line items from the consulting budget, as they must relate to the project's statement of work. NOTE: Sales tax applies to products and not services supplied under this MSA. Contact the State Board of Equalization toll free at 800-400-7115 for general tax questions and information.

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3. Final Selection of Contractor

The ordering agency should form a team to review the submitted responses. Selection criteria should be quantifiable and stated in the Request for Offer. Some examples of selection criteria are experience, staffing, and availability to complete project within the requested timeframe. Each response must be evaluated on the same basis. See **Section VI, FORMS, Page 2 for Contractor Evaluation and Selection Form.**

If the ordering agency is using the RFP primary/lowest cost award method to select the contractor, the MSA service contract is awarded to the contractor that submitted a compliant offer and the lowest cost proposal.

Note: If ordering agency sends the Request for Offer to three or more suppliers and receives only two written proposals, it must determine and document if the proposals are reasonable and as to why only two proposals were received. Assuming the explanations is reasonable, then the MSA Service Contract can be issued on the basis of the selection criteria.

If the ordering agency is using the RFP secondary/best value/high point award method to select the contractor, the agency must assign a minimum of 30% of the total evaluation points to the category of "project cost". The following formula should be used when assigning points to the "project cost" category:

(lowest cost proposal)

$$\frac{\text{lowest cost proposal}}{\text{currently evaluated proposal}} \times \text{total points available} = \text{points of currently evaluated proposal}$$

As an example:

Assume the lowest cost proposal received is \$100,000 and one other proposal received is \$120,000, and project cost points are 30 out of 100 total evaluation points, the following points would be assigned for cost:

$$\frac{100,000}{100,000} \times 30 = 30 \text{ points for the } \$100,000 \text{ proposal}$$

$$\frac{100,000}{120,000} \times 30 = 24.9 \text{ or } 25 \text{ points for the } \$120,000 \text{ proposal}$$

For assistance on selection criteria, contact your DGS/OLS assigned attorney or the DGS/PD Contract Administrator.

The selection process can include conference call interviews or face-to-face interviews as well as the evaluation of the contractor's written response. After the selection is made, simply notify the consultants of your selection. Ordering agencies must document such selection and keep all pertinent documents in their contract file.

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4. Award and Protest

The ordering state agency must follow any applicable internal procedure for awarding the MSA contract as well as the applicable procedures found in the State Contracting Manual. Any protest of an award of the MSA contract must be submitted in writing to DGS, OLS.

B. EXECUTING MSA SERVICE CONTRACT

1. Preparation of Contract (refer to Section VI, Forms)

Following their individual department/agency contracting procedures, State Agencies should use the state Standard Agreement (STD.213 and STD. 215) to initiate the MSA Service Contract. The ordering agency's DGS billing code must be listed on the Std. 213 state form.

The required exhibits are:

- a. Exhibit A Statement of Work with Deliverables and Timelines
- b. Exhibit B Budget Detail and Payment
- c. Exhibit D Ordering Agencies' Special Terms and Conditions that relate to specific order agency's programs, i.e. Federal Language. **Do not change or repeat the terms and conditions of this MSA.**
- d. Consultant resumes and classifications (including subcontractors)

Note: The MSA contract language with DGS is incorporated by reference and is not attached to the ordering agency's contract. If the term of the MSA Service Contract is for more than one year, it should be written as a one-year contract with optional years to extend. Ordering agencies should follow their own procedures and the State Contracting Manual when issuing a contract for more than one year.

2. Processing of Contracts

a. State Agencies

1) Contracts ≤\$50,000 are exempt from DGS/OLS Review/Approval

- (a) Follow individual department/agency's procedure for distributing completed contracts.
- (b) Send a copy of the completed contract along with a copy of the Contractor Evaluation and Selection Form to DGS/PD and Attn.: MAP Section.

2) Contracts >\$50,000 are subject DGS/OLS Review/Approval COPIES NEEDED FOR STD. 213, STD. 215 : follow the existing Standard State Contracting process with OLS.

C. MSA K Performance Report

1) State Agency Requirements: Upon completion of the contracted project, the ordering agency shall complete a Contract/Contractor Evaluation Form (STD. 4) and send a copy to DGS/OLS, at 707 Third Street, 7th Floor, West Sacramento, CA 95605 and a copy to DGS/PD, Attn: MAP Section, 707 Third Street, 2nd Floor, West Sacramento, CA 95605.

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2) Local Agency Requirements

1. Local agencies may use their own contract forms.
2. Send one copy of the approved contract along with a copy of the Contractor Performance Report to DGS/PD, Attn.: MAP Section. The local agency resolution, if required, approving use of the MSA must be attached to the approved contract. The Local Agency order document must include the DGS Billing Code. If a local agency has not been assigned a DGS billing code, it should fax its name and complete billing address to the MAP Section at (916) 375-4395.